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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,661	09/15/2000	Thomas S. Abbott		2183

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EXAMINER

SAGER, MARK ALAN

ART UNIT PAPER NUMBER

3713

DATE MAILED: 10/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/663,661	Applicant(s) ABBOTT, THOMAS S.	
	Examiner M. A. Sager	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Re-opening Prosecution After Appeal

1. In view of the Amendment received on March 3, 2004 and in view of reconsideration of scope of invention and Nolte, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Finality Withdrawn

2. In reconsideration of cited prior amendment and reconsideration of the finality of the rejection of the last Office action, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim language 'effectively immediately' is not so defined by original disclosure to alert the public or an artisan what is or is not included by the scope of claimed

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invention. Thus, the claimed invention including 'effectively immediately' is either confusing for not providing such disclosure to set the metes and bounds of invention or is indefinite for not so defining what is meant by 'effectively immediately'. The lack of disclosing there was any appreciable predetermined delay [as opined by Applicants in amendment filed March 3, 2004] may be sufficient for inferring the language would be supported by Applicants originally filed specification; however, the originally filed specification lacks support to define for the public the metes and bounds of claims including 'effectively immediately'.

Claim Rejections - 35 USC § 102

5. Claims 1-2, 10-11, and 26-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Nolte et al. Nolte discloses a rotating reel based game apparatus requiring patience, skill, knowledge and concentration to play well (1:8-10, 2:15-24, 35-54, 3:47-4:4, 5:62-66, 16:2-23, figs. 1-12), comprising a plurality of reels (figs. 1-4), a plurality of predetermined fixed symbols with said symbols randomly distributed on each of said reels (5:62-6:63, M), means for displaying a portion of said reels to a player so that for each of said reels at least two or a plurality of) full symbols of said symbols on each of said reels may be visually perceived by said player (3:47-4:3, 4:64-7:9, 16:2-23, figs. 1-4, refs. 28-38; at least due to no temporal requirement for two or more full symbols being perceived at same instant on each reel or alternatively, 1.99% is visually equivalent to at least two full symbols), means for rotating each of said reels (10:24-58, 16:24-19:15, figs. 1-6), a player controlled stop for each of said reels so that under the control of a player said rotation of said reels may be effectively immediately stopped such as a player pressing key stop button 17 and one video frame image passes from stop button press until stop time (11:15-33, 12:45-13:49), a predetermined location within said portion of said reels that

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is displayed to said player (4:50-63, 12:1-34, 16:55-18:52, Play Combination Sequence Table), means for determining if a symbol of said two (or a plurality of) full symbols visually perceived by said player of said plurality of fixed symbols on each of said reels is stopped within a predetermined location (9:1-12, 24-34, 16:2-18:59), a results table to determine the outcome of play of said game based on whether said player has timed the operation of stops whereby at least one of said predetermined fixed symbols is stopped within one of said predetermined locations (18:26-59), whereby said player plays said rotating reel based game by initiating means for rotating (start key 21) each of said reels then using said player controlled stops (stop key 17) for each of said reels to attempt to stop said symbol of said plurality (or at least two) full symbols within said predetermined location according to results table to maximize results for player (15:49-19:15, esp. 17:46-18:53, fig. 1-12) and including wherein said means for rotating each of said reels rotates said reels at a rotational speed so that said player has a time interval at least one-tenth of a second to use said player controlled stop to stop the rotation of the reels whereby the player may control if a symbol of said at least two (or a plurality of) full symbols visually perceived by said player of said plurality of fixed symbols is stopped within said predetermined locations (11:15-33, 13:1-15:26, 16:2-23) at least since a player using skill and memory of sequential order of the icons and of time delay for the stop of each grid of Nolte's game may use the stop button 17 to stop the reels so that icons of winning combinations stop in locations selected (e.g. pay/win lines) and there is no temporal requirement of perceiving at least two (or a plurality of) full symbols at same instant. Essentially, a player of Nolte's game must memorize a longer string of the symbol sequence and also memorize delay of grid cells (16:2-23) such that by perceiving a starter symbol (i.e. icon E, or any other icon) of a memorized string of symbol

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sequence (E, AA, V, and Z or any other icon sequence of Partial Randomized Iconic Database Table) and with knowledge of time delay (1 to 4 video frames), a player of Nolte's game presses a stop button 17 so as to stop a desired symbol (i.e. Z or any other winning icon) of the symbol sequence in a desired location being a pay/win line.

Allowable Subject Matter

6. Claims 3-9, 12-25 and 28-35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection. First, there is no definition provided within framework of originally filed specification that alerts public to the metes and bounds of invention regarding 'effectively immediately'. Second, the examiner respectfully disagrees with applicant's characterization in papers (received 6/12/02, 10/23/02, and 3/17/03) that Nolte is not a skill-based game. Third, regarding the displaying a portion of reels to a player so that for each of said reels a at least two (or a plurality of) full symbols may be visually perceived, there is no temporal requirement for the at least two (or a plurality of) full symbols be visually perceived at same instant such that by rotation of reels over time for each reel a player of Nolte's machine visually perceives a plurality of symbols. Alternatively, Nolte displays 1.98 or 1.9999 icon symbols (4:64-5:61) which is functionally visually equivalent to visually perceiving two full symbols. Essentially, there is no perceptible difference a player would perceive of the rotating symbols as seen at least in snapshot in fig 3A, the rightmost depiction of 1 full symbol V and .98 (or .9999)

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of symbol Z appears functionally equivalent to two full symbols. Although Nolte programs the game to display less than two full symbols, mentally/functionally the player perceives the equivalent of at least two full symbols. Further for claim 1, the claim language is 'may be' visually perceived. Fourth, regarding effectively immediately, Nolte effectively stops after an imposed delay, such as one video frame, that may include fractional time delays (11:15-62, 13:35-49, 16:2-23) that is deemed effectively immediately. Fifth, it is noted that applicant remarks assert difference between Applicants invention and prior art at least in part based upon a player seeing a symbol and having reflex to input a stop to cause the reels to stop with the symbol in a window location; however, there is no structure, process or link to detect what a player perceives. Also, a player of Nolte's game apparently must memorize a longer string of the symbol sequence and also memorize delay of grid cells (16:2-23) such that by perceiving a starter symbol (i.e. icon E, or any other icon) of a memorized string of symbol sequence (E, AA, V, and Z or any other icon sequence of Partial Randomized Iconic Database Table) and with knowledge of time delay (1 to 4 video frames), a player of Nolte's game presses a stop button 17 so as to stop a desired symbol (i.e. Z or any other winning icon) of the symbol sequence in a desired location on pay/win line. Finally, the requirement of one-tenth of a second as asserted by applicant appears to be based on a predetermined players skill level to press the stop key in order for symbol to stop in a location. Nolte requires the player to use skill to memorize a symbol sequence and the timing delay to press the stop key upon perceiving a starter icon of the sequence for a desired symbol to stop in a desired location and since Nolte has the icon sequence block reproduced three times if a player determines that they missed a starter icon of a symbol sequence, the player may 'wait' a time interval of at least one tenth of a second [or more due to

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comprising] for one complete icon sequence block A to play through to provide input on next sequence string and thus meets the time interval requirement.

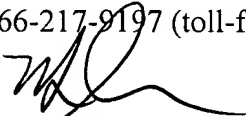
Conclusion

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


M. A. Sager
Primary Examiner
Art Unit 3714

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